

State Board of Equalization

OPERATIONS MEMO

For Public Release

No. : 1046

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**Subject: ISSUANCE OF NOTICE OF SUCCESSOR'S LIABILITY BILLINGS ON
ACCOUNTS WHOSE PREDECESSORS ARE IN PETITION STATUS**

PURPOSE

This operations memo clarifies that the issuance of a Notice of Successor's Liability billing can occur as soon as there is evidence of a successor and the liability that exists on the predecessor's account is in petition status. Examples of appropriate times to request a Notice of Successor's Liability: predecessor's liability is in petition status and not yet final; after an audit has been completed, billed, and not yet final on the predecessor's account; as soon as a liability on the predecessor's account becomes final; the predecessor's account is closed-out with established non-final liabilities, etc.

GENERAL

Prior to a legislative law change of Section 6812 in July 1991, the Board was prohibited from issuing a Notice of Successor's Liability on an account while the predecessor's liability was in petition status and not yet final. After the change in law, the Board began issuing Notice of Successor's Liabilities on accounts where the statute period for issuing the billing was to expire within six months. The issuance of a Notice of Successor Liability prior to the predecessor's liability becoming final does not violate any statutory requirement.

Further review of the law indicates that a Notice of Successor Liability can be issued anytime during the three years after the Board is notified of the purchase of the business or stock of goods. Billing as early as possible allows the successor to respond to the potential liability in a more timely manner, which consequently, may help collect an accounts receivable. Additionally, billing as early as possible will better protect the State's ability to collect the outstanding account once the petition is resolved.

The obligation of the successor shall be enforced by serving a notice of successor liability on the person. Any person against whom a determination is made may petition for redetermination within 30 days after service. If a petition for redetermination is not filed within the 30 day period, the notice shall become final and the amount becomes due and payable, except that no additional penalty shall apply if not paid when due. Collections of any amount due shall apply when the notice becomes final and the obligation is not paid, unless the predecessor is still in petition status.

At a future date, ACMS should be able to generate district specific listings of potential petitioned predecessor/successor accounts. In the meantime, a list of accounts which have determinations in petition status in each district are available upon request. To request a list contact the Compliance Planning and Evaluation Section at (916) 445-5167 or CALNET (8) 485-5167.

GUIDELINES**District Procedures and Responsibilities**

District offices should prepare and forward a BT-200, *Check List Request for Collection Action*, to the Special Procedures Section, MIC:55, as soon as there is any evidence of a successor.

The District staff is responsible for ensuring all petitions received in the field are handled on a priority basis. If a petition for redetermination is received in the office directly from the successor, the original petition and the envelope in which the petition was mailed should be immediately forwarded to the Petitions Section, MIC:38, for processing.

Headquarters Procedures and Responsibilities**Special Procedures Section**

The Special Procedures Section will be responsible for receiving and approving District requests for a Notice of Successor Liability. If approved, the Special Procedures Section will issue the successor billing by preparing a BT-1266-A and copy Petitions Section if the predecessor account is in petitions status.

Petitions Section

After being notified by the Special Procedures Section of a successor billing on a petitioned predecessor account, the Petitions Section will place a sundry withhold (SW) on the successor account. This will cause a "SW" indicator to appear on the successor account. The Petitions Section will be responsible for removal of the SW indicator once the predecessor liability is removed from petition status (redetermined). NOTE: The placement of a lien on real property of the successor will not violate any stay on collection activity.

OBSOLESCENCE

This operations memo will become obsolete when information contained within is incorporated into the appropriate manuals.

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Distribution: 1-D